

#### Members

Sen. Beverly Gard, Chairperson  
Sen. Frank Mrvan  
Sen. Edward Charbonneau  
Sen. Karen Tallian  
Rep. Ryan Dvorak  
Rep. David Wolkins  
Rep. Matt Pierce  
Rep. Timothy Neese  
Doug Meyer  
Stephen L. Murray  
Dave Wyeth  
Dwayne Burke  
John Hardwick  
Art Umble  
Calvin Davidson  
Jon H. Moll  
Thomas Easterly  
Heather Hill



## ENVIRONMENTAL QUALITY SERVICE COUNCIL

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Authority: IC 13-13-7

### MEETING MINUTES<sup>1</sup>

**Meeting Date:** October 26, 2009  
**Meeting Time:** 10:00 A.M.  
**Meeting Place:** State House, 200 W. Washington St., Senate Chamber  
**Meeting City:** Indianapolis, Indiana  
**Meeting Number:** 5

**Members Present:** Sen. Beverly Gard, Chairperson; Sen. Frank Mrvan; Sen. Karen Tallian; Rep. David Wolkins; Doug Meyer; Dwayne Burke; John Hardwick; Art Umble; Calvin Davidson; Jon H. Moll; Thomas Easterly; Heather Hill.

**Members Absent:** Sen. Edward Charbonneau; Rep. Ryan Dvorak; Rep. Matt Pierce; Rep. Timothy Neese; Stephen L. Murray; Dave Wyeth.

1. Call to Order Rep. Wolkins, chairing the meeting on behalf of Sen. Gard, called the meeting to order at 10:10 A.M.

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<sup>1</sup> Exhibits and other materials referenced in these minutes can be obtained electronically by requesting copies at [licrequests@iga.in.gov](mailto:licrequests@iga.in.gov) Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

## 2. Lake Water Quality Issues

Lenore Tedesco, Ph.D., Department of Earth Sciences and Center for Earth and Environmental Science, Indiana University-Purdue University Indianapolis, made a presentation entitled "Blue-Green Algae in Indiana: An Emerging Threat and the Need for Statewide Monitoring and a Public Information Plan" (Exhibit #1). In response to questions from Council members, Dr. Tedesco:

- Indicated that there is insufficient data to determine whether phosphorus bans in other states reduce algae blooms
- Discussed the effects of phosphorus in lake sediments
- Discussed the potential cost of a statewide lake monitoring system
- Discussed the effectiveness of lawn fertilizer that does not contain phosphorus

Bruno Pigott, IDEM, made a presentation entitled "Blue Green Algae in Indiana: The Role of the State" (Exhibit #2), and indicated that the presentation was prepared in cooperation with Dr. James Howell, Indiana State Department of Health (ISDOH) and Ron McAhron, Indiana Department of Natural Resources (IDNR). In response to questions from Council members, Mr. Pigott:

- Discussed the extent to which water sampling for blue-green algae has been conducted throughout the state
- Discussed the issues surrounding inclusion of sampling results on IDEM's website
- Discussed the extent to which municipal water treatment eliminates blue-green algae

John Ulmer, Hoosier Heartland Resource Conservation and Development Council, made a presentation concerning pollution in local watersheds (Exhibit #3). In response to questions from Council members, Mr. Ulmer:

- Discussed the extent to which state and federal money is used to control contaminated sediment in Indiana lakes
- Noted that seeding requirements to control erosion do not take the growing season into account

The Council received from Professor William Jones, School of Public and Environmental Affairs, Indiana University, a report (Exhibit #4) concerning toxic algae and the results of algal toxin tests in Indiana.

## 3. Recommendations and Final Report

The following recommendations for inclusion in the final report were approved by the indicated vote by show of hands, all approvals representing a majority of the appointed members of the Council.

### **Environmental Restrictive Covenants (ERC's)**

A. To reduce confusion for units of local government and IDEM, the definition in IC 13-11-2-71.2 of "environmental restrictive ordinance" enacted in P.L. 78-2009 (HEA 1162) should be modified to better identify which ordinance adoptions and amendments must be reported to IDEM by local units of government. Yes: 10; No: 0

B. IDEM should continue its work on the ERC registry. No additional or external registry is needed at this time, but IDEM is open for reevaluation in the future. Yes: 10; No: 0

C. The Council should continue to monitor issues surrounding the ERC registry, including the extent to which compliance inspections should be conducted, the appropriate level of funding, and whether entities subject to ERC's should be required to submit periodic reports to IDEM. Yes: 10; No: 0

### **Regional Sewer Districts (RSD's)**

A. IC 13-26 should be amended to provide clear authority to IDEM to take action to hold the appropriate person or entity (e.g., the county commissioners, the local health department, an individual, the county surveyor, or the local plan commission) accountable for septage in waters. Yes: 10; No: 0

B. The Indiana Utility Regulatory Commission should be given jurisdiction in cases initiated by petition concerning RSD rates, RSD territories, and RSD requirements for properties to connect to the RSD sewer system. Yes: 11; No: 0

### **Underground Storage Tanks (UST's) and the Excess Liability Trust Fund (ELTF)**

A. The deductible under IC 13-23-8-3(2) for a petroleum UST that is not double walled and has piping that does not have secondary containment should be changed from \$25,000 to \$35,000. Yes: 10; No: 1

B. In an action to determine liability for UST remediation, IDEM should be allowed the same standing as any other third party. Yes: 10; No: 0

C. A mechanism should be provided to assist IDEM with remediating UST sites for which there is no responsible party, with the goal of reducing the environmental uncertainty and threat associated with those UST sites. Yes: 11; No: 0

D. IDEM should be allowed to recover costs from UST owners and operators only for items that are properly documented (including those that are not ELTF eligible), with the proceeds to be used for the state cleanup program and not for general IDEM expenses. Yes: 11; No: 0

E. IDEM, IDNR, and ISDOH should jointly develop a statewide strategy to deal with the problem of blue-green algae in lakes. Yes: 9; No: 0

The following proposed recommendation did not pass: "IDEM should not proceed with rulemaking that would significantly alter the statutorily defined mission of the ELTF". Yes: 3; No: 6

The final report was approved by the indicated vote by show of hands, representing a majority of the appointed members of the Council. Yes: 11; No: 0

4. Adjournment Rep. Wolkins adjourned the meeting at 12:00 P.M.